

SKILLS DEVELOPMENT ACT, 1998
SECTOR EDUCATION AND TRAINING AUTHORITIES
(SETAs) GRANT REGULATIONS REGARDING MONIES
RECEIVED BY A SETA AND RELATED MATTERS

I, Membathisi Mphumzi Shepherd Mdladlana, the Minister of Labour, in terms of section 36 of the **Skills Development Act, 1998 (Act No. 97 of 1998)**, and after consultation with the National **Skills Authority**, hereby **make the** regulations in the Schedule.

SCHEDULE

ARRANGEMENT OF REGULATIONS

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6. Allocation of mandatory grants by SETA
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Definitions

1. In these Regulations, **any** word or expression to which a meaning has been assigned **in** the Act, shall have the **meaning so** assigned and, unless the context otherwise indicates-

-- Act" means the **Skills** Development Act, **1998** (Act **No. 97** of **1998**);

"administration costs" **means** the costs contemplated in regulation 4(3);

"annexure" means **an** annexure to these regulations;

"chamber" means a chamber established under section 12 of **the** Act;

"discretionary grants" **means** grants contemplated in regulation **7**;

"financial **year**" means the period contemplated in regulation **2**;

"levy income" means the total amount of **money** received by **a SETA** in terms of sections **7(1)** and **8(2)(a)** read with **8(3)(b)** of the **Skills Development Levies Act**;

"mandatory grants" **means** grants contemplated in regulation 6;

"submit" means to deliver by hand or registered **post** or to transmit a communication **by** electronic mechanism as **a** result of which the recipient is capable of printing the communication.

Financial Year

2 **The** financial year of **a SETA** **will** cover **the** period **1** April **2005** to 31 **March** 2006 and thereafter the period of **12** consecutive **months** extending from **1** April to 31 March in the succeeding years.

Limitation on administration costs of SETA

- 3.**
- (1) In **terms** of section **14(3)(b)** read with sections 14(3A)(a) and 14(3B) of the Act, a SETA **may** not use more **than 12,5%** of its levy income received in **any year** to pay for **its** administration costs in respect of **that** financial year.
 - (2) In addition to subregulation (1), a SETA **may use** the contributions received **from** public service employers in the national or provincial spheres of government for its administration costs.
 - (3) The Minister **may** grant prior written approval authorising a SETA to **use an** amount not Contemplated by subregulations **(1)** and (2) for **its** administration costs, if the Minister is satisfied that such expenditure is

necessary to enable **the SETA** to continue performing its functions in terms of the Act.

- (4) For the purposes of subregulation (1) and (2), and subject to section 14(3B) of the Act, the administration **costs** include, but not limited to, the following-

rent, heat, light, power, insurances, bank charges, audit fees **and** accounting fees, general administration, postage, printing and stationery, documentation **and books**, advertising, reports, **wages** and salaries, travel **expenses**, **staff** training, purchase of computers and information systems, maintenance of computers and systems, general maintenance, hire **costs** of photocopier, telephone and fax, meetings and **seminars**, land, non-residential buildings **and** improvements **thereon**, furniture and office equipment, other machinery **and** equipment, **transport assets**, research, consultancy fees, depreciation, promotional items, national skills development strategy conference **expenses**, database development and stakeholder training.

SETA finances

4. (1) **Each SETA must in compliance** with section 14(2) of the Act, establish a banking account from which-

- (a) the administration costs of SETA activities;
- (b) mandatory grant disbursements;
- (c) discretionary grant **and** project disbursements; and
- (d) investments

shall be deposited and **withdrawn**.

- (2) **An amalgamated SETA** contemplated **in** section 9A of the Act that receives funds from **one** or **more** amalgamating **SETAs** must-

- (a) establish a **banking** account for depositing and withdrawing such funds; and
- (b) **maintain** such account until all outstanding assets, rights, liabilities and obligations that devolved **upon** and vested in the SETA in terms of section 9A (4) are **finalised**.

- (3) A **SETA must use all** moneys received **in** terms of the **Skills Development Levies Act** to -

- (a) administer the activities of that **SETA**;
- (b) implement its annual strategic plan **as** contemplated in the **Treasury Regulations issued** in terms of the Public Finance Management Act; **and**
- (c) if not otherwise **specified** by the Public Finance Management **Act**, invest the moneys in accordance with the investment policy approved by **the** National Treasury.

Transfer of funds by Director-General if administration of SETA is taken over

5. In order to transfer any funds in a **SETA's** banking account to the National ~~Skills~~ Fund in terms of section 15(2)(d) of the Act, the Director-General may require-
- (a) the **SETA** concerned to identify any banking account operated by ~~the SETA~~ in terms of section 14(2) of the Act; and
 - (b) a ~~bank~~ or other financial institution concerned to transfer, in accordance with section 15(2)(d) of the Act, the funds in ~~the~~ account contemplated in subregulation (1) ~~to~~ a bank account ~~opened and~~ administered for that purpose by the National Skills Fund.

Allocation of mandatory grants by SETA

6. (1) Subject to regulation 10, A SETA must allocate ~~a~~ mandatory grant to -
- (a) ~~an~~ employer employing **50** or more employees that has submitted ~~an~~ application for a Workplace Skills **Planning** or Training Report grant in accordance with subregulation (2) ~~and~~ in the form prescribed in Annexure "2" to these Regulations; or
 - (b) ~~an~~ employer employing less ~~than~~ **50** employees ~~that~~ has submitted an application for a grant in accordance with subregulation (2) on a simplified form provided ~~by the SETA~~.
- (2) An application for a mandatory grant in terms of subregulation (1) ~~must~~ be submitted by-
- (a) 30 September 2005 for the 2005/ 2006 financial year or in respect of unclaimed mandatory grants in respect of previous financial years;
 - (b) 30 June for all subsequent financial years;
 - (c) within 6 ~~months~~ of registration in the case of an employer ~~who~~ ~~has~~ registered for the ~~first~~ time in terms of section 5(1) of the Skills Development Levies Act.
- (3) The mandatory grant to be paid by the SETA -
- (a) ~~must~~ be equivalent to **50** % of the total levies paid by the employer in terms of section 3(1) read with section 6 of ~~the~~ Skills Development Levies Act during ~~each~~ financial year; ~~and~~
 - (b) ~~must~~ be paid to the employer at least quarterly.

- (4) If ~~the~~ employer does not claim a mandatory grant within the time ~~periods~~ specified in subregulation (2), ~~the~~ SETA must transfer the employer's unclaimed mandatory grant funds to ~~the~~ discretionary grant fund.

Allocation of discretionary grants by SETA

7. (1) A SETA may determine and allocate a discretionary grant-
- (a) to commission research in the sector in accordance with the sector skills plan and guidelines prepared by the Department;
 - (b) to fund the development of guidelines and the **training** of sector specialists or ~~skills~~ development facilitators;
 - (c) to a **qualifying** employer or ~~an~~ accredited organisation in respect of Adult Basic Education and **Training** provided to a learner or worker;
 - (d) to a **training** provider or employer in respect of a learner who enters a learning programme to acquire a scarce skill identified by the SETA;
 - (e) to ~~an~~ employer who provides ~~work~~ experience opportunities to learners in sector relevant programmes;
 - (f) to ~~an~~ employer or **training** provider to ~~train~~ and mentor learners to acquire new venture qualification;
 - (g) to **fund** ~~an~~ institution of sectoral or occupational excellence;
 - (h) to **fund** ~~an~~ institution ~~that offers the new~~ venture qualification;
 - (i) to **fund** ~~an~~ education and **training** provider or an institution responsible for ~~the~~ implementation of ~~the~~ National Qualifications Framework in support of the National Skills Development Strategy;
 - (j) to **fund** SETA constituency capacity building initiatives and promotion of skills development in ~~the~~ sector;
 - (k) to fund a lead employer contemplated in regulation 3(4) of the Learnership Regulations;
 - (l) to **fund** ~~an~~ agency established in terms of section 17(7) of the Act;
 - (m) to **fund** ~~an~~ employer for learnerships registered under a different **SETA**;

- (n) to **fund an** employer in respect of sector **skills** priorities.
- (2) A SETA may prepare and distribute forms for applications for any category of grant specified in subregulation (1).
- (3) The discretionary grants to be paid by the SETA in terms of subregulation (1) must be funded from-
 - (a) 20% of the total levies paid by **the** employer in terms of section 3(1) of the **Skills** Development Levies Act during each financial year;
 - (b) surplus administration funds;
 - (c) unclaimed mandatory grants;
 - (d) interest and penalties received in terms of sections 11 and 12 of the **Skills** Development Levies Act;
 - (e) interest **earned** on investment;
 - (f) surplus contributions received from public service employers in the national or provincial spheres of government contemplated in section 30(b) of the **Act**.
 - (g) **any** other money received by the SETA in terms of section 14(1)(f) of the **Act**.
- (4) A discretionary grant may be paid in terms of subregulation (1) to-
 - (a) **an** employer within the jurisdiction of **a** SETA, including an employer who is not required to pay skills development levy in **terms** of the **Skills** Development Levies Act; and
 - (b) other associations or organisations that meet the criteria for the payment of such *grant*.

Approval of grants by **SETA Board or Council**

8. The SETA criteria for discretionary **grants** must be approved by the SETA Board or Council before funds **are** allocated under regulation 7.

Grant disbursement schedule

9. ~~Each~~ SETA ~~must~~ prepare and distribute a schedule setting out the criteria in terms of regulation 8 and the dates by which applications for the mandatory grants contemplated in regulation 6 and discretionary grants contemplated in regulation 7 must be submitted.

Grant recovery by employers

10. (1) An employer seeking recovery of a **grant against** the levy payment ~~must~~ meet the eligibility criteria for grant recovery **as** prescribed in subregulation (2).

- (2) A SETA may not pay any grant to ~~an~~ employer who is liable to pay the skills development levy in terms of section 3(1) of the Skills Development Levies Act unless the employer-
- (a) has registered ~~with~~ the 'Commissioner in terms of section 5 of the **Skills** Development Levies Act;
 - (b) has paid the levies directly to the Commissioner in the manner and within the period determined in section 6 of the **skills** Development Levies Act;
 - (c) is up to date ~~with~~ the levy payments to the Commissioner at the time of approval and in respect of the period for which an application is made;
 - (d) has submitted a Workplace **Skills** Plan ~~within~~ the timeframes prescribed in regulation 6(2) of these regulations; and
 - (e) with effect from 2006 / 2007 financial year and in subsequent financial years, ~~has~~ submitted a Training Report of performance in respect of the implementation of the previous financial year's Workplace **Skills** Plan.
- (3) Employers who fail to meet the prescribed criteria will forfeit the grant referred to ~~in~~ regulation 6 of these regulations.

Payment for services rendered by SETAs

11. For the purposes of section 14(1)(e) of the Act, a SETA may only charge for services if –
- (a) it ~~has~~ submitted a motivation in ~~writing~~ to the Director-General; and
 - (b) the Director General, in accordance with **any** guidelines ~~issued~~ by the Minister on the advice of the ~~National~~ **Skills** Authority, has approved ~~the~~ SETA charging for those services.

Repeal of Regulations

12. The Regulations referred to in Annexure 1 are hereby repealed to the extent specified therein.

ANNEXURE 1

REGULATIONS REPEALED

Government Notice No.	Date	Title	Extent of Repeal
R.103	7 February 2000	Skills Development Act, 1998 (Act No.97 of 1998) Regulations for the period 1 April 2000 To 31 March 2001 Regarding the Funding and Related Issues	As a whole
R.571	22 June 2001	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Regulations	As a whole
R.344	7 March 2003	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Regulations	As a whole
R.729	11 June 2004	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Funding Regulations: Amendment	As a whole
R.1200	15 October 2004	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Funding Regulations Amendment: Government Notice No. R.729 of 11 June 2004. Correction Notice	As a whole

ANNEXURE 2**SKILLS DEVELOPMENT ACT, 1998****SETA GRANT REGULATIONS****NAME AND ADDRESS OF SETA****APPLICATION FOR MANDATORY GRANT BY EMPLOYER
[Regulation 6(1)(a)]****A(1). Details of Employer****1. Name of Organisation:**

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.....

2. Postal address:

.....
.....

City and Province: Postal code:

3. Physical address:

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.....

(If the workplace skills plan or training report is submitted on behalf of one or more establishments, please attach a list of names and addresses, including physical and postal addresses).

4. Skills Development Levy (SDL) number:

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5. Telephone number:

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6. Fax number:

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7. E-mail address:

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8. Banking details

Name of Bank	
Address of Bank	
Branch Code	
Account Number	

9. Main business activity (use **SIC** code):

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10. Total employment (defined **as** total workforce in respect of which **skills** development levies have been paid to SARS):

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11. Total annual payroll for the end of the previous financial year:

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12. Name(s) of **Skills** Development Facilitator(s) (**SDF**):

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13. Address (if different from address of organisation indicated above):

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14. Contact details of **SDF**

(a) Telephone number:

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(b) Mobile telephone number:

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(c) Fax number:

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(d) E-mail address:

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Strategic skills development priorities for the financial year 1/4/.. to 31/3/...

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